

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 9/13/2012

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Modification No. 4 to SDA 2012-A

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 4 to the Supplemental Development Agreement TIF-5, Series 2012-A to the Annexation and Development Agreement between the City of Huntsville and LW Redstone Company, LLC.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: 9/11/12

RESOLUTION NO. 12-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 4 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 4 to Supplemental Development Agreement TIF5 Series 2012-A between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of September 13, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 13th day of September, 2012.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 13th day of September, 2012.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA
COUNTY OF MADISON

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**MODIFICATION NO. 4 TO THE
SUPPLEMENTAL DEVELOPMENT AGREEMENT
TIF5 – Series 2012-A TO ANNEXATION AND DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF HUNTSVILLE
AND LW REDSTONE COMPANY, LLC
AS ADOPTED AND APPROVED BY RESOLUTION No. 10-581
ON JULY 22, 2010 AND AS PREVIOUSLY AMENDED BY
MODIFICATIONS NO. 1, 2,3,**

MODIFICATION No. 4

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No.4 to the Supplemental Development Agreement TIF5-Series 2012-A which was previously adopted and approved on by Resolution No. 12-64 on January 26, 2012, amended by Resolution No. 12-348 on April 26, 2012 Resolution No. 12-427 on May 24, 2012, Resolution No. 12-561 on June 28, 2012, to hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$3,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B. add Change Order No. 3 in the amount of \$68,137.37 to the Agreement with Reed Contracting Services, Inc. for Redstone Gateway, Package 1-F, Project # 65-11-SP22. The amount originally budgeted and allocated for the contract with Reed Contracting Services, Inc. for Redstone Gateway, Package 1F-1 Redstone Gateway Extension, Market Street and Overlook Road relocation, Project No. 65-11-SP22, was \$5,439,774.32. The original contract was originally adopted and approved by City of Huntsville Resolution No. 12-75 in the amount of \$ 5,329,872.00 which was funded by multiple SDA's, \$2,000,000 from 2010-A, \$1,000,000 from 2010-B, and \$2,329,872 from 2012-A. It was later modified by Change Order No. 1, in the amount of \$ 109,902.32 which was adopted and approved by Resolution No. 12-211 and was funded by SDA 2010-B. It was further modified by Change Order No. 2, in the additional amount of \$498,225.81, which was adopted and approved by Resolution No. 12-551 and was funded by Modification No. 2 to SDA TIF5-Series 2012-B. Change Order No. 3 will incorporate Package 1F, Revisions 3 (dated 4/23/12) and 4 (dated 4/26/12) including modifications for mass grading, critical pad delivery, fine grading, erosion control and storm system in the amount of \$68, 137.3 resulting in a total revised contract amount of \$6,006,137.50. Therefore, in order to fund Change Order No. 3, the amount of \$68,137.37 will be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED."
2. Within Section B. OWNER IMPROVEMENT, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED", the amount of \$80,231.00 allocated and budgeted for undefined engineering and construction costs is hereby decreased by the amount of \$68,137.37 for a revised total of \$12,093.63.

President of the City Council of the
City of Huntsville, Alabama
Date:_____

All other terms and conditions of the SDA TIF5-SERIES 2012-A remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

(“OWNER”)

L W REDSTONE COMPANY, LLC

Dated: _____, 2012

By: _____

Its: _____

STATE OF MARYLAND)

COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2012.

(SEAL)

Notary Public

My Commission Expires: _____

(“CITY”)

THE CITY OF HUNTSVILLE, ALABAMA,
A municipal corporation

Dated: _____, 2012

By: _____
Tommy Battle
Its: Mayor

ATTEST:

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the ____ day of _____, 2012.

(SEAL)

Notary Public

My Commission Expires: _____

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 9/13/2012

Department Contact: Cissy Cates

Phone # 427-5026

Contract or Agreement: Mod. 4 to SDA TIF5 Series 2012-A

Document Name: Modification No. 4 to SDA 2012-A LW Redstone

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating	<i>Mary C. Cates</i>	<i>9/11/12</i>
2) Legal	<i>Mary C Cates</i>	<i>9/11/12</i>
3) Finance		
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		